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9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,	)	CASE NO. 4-20-71601 MAG
	)	
14 Plaintiff,	)	
	)	<b>STIPULATION AND [PROPOSED] ORDER</b>
15 v.	)	<b>EXCLUDING TIME UNTIL FEBRUARY 26,</b>
	)	<b>2021</b>
16 VANDRICK ANDRE JONES	)	
	)	
17 Defendant.	)	
	)	
	)	
	)	

19  
20 Plaintiff United States of America, by and through its counsel of record, the United States  
21 Attorney for the Northern District of California and Assistant United States Attorney Thomas R. Green,  
22 and defendant Vandrlick Andre Jones (Jones or defendant), by and through his counsel of record,  
23 Assistant Federal Public Defender Joyce Leavitt stipulate as follows:

24 1. On November 5, 2020, the Honorable Donna M. Ryu signed a federal criminal complaint  
25 charging defendant with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1).  
26 On January 21, 2021, defendant made his initial appearance and was advised of the charge on the  
27 criminal complaint.

1           2.       Subsequent status conferences regarding detention and a preliminary hearing were held  
2 on January 26 and 28, 2021 and February 11, 2021, with defendant waiving a detention hearing without  
3 prejudice and the parties setting this matter for a status regarding preliminary hearing or arraignment at  
4 1:30 p.m. on February 26, 2021. At each appearance in this matter the parties stipulated and the Court  
5 ordered that time should be excluded until the next appearance, as it related to both the timing of any  
6 preliminary hearing under Federal Rule of Criminal Procedure 5.1, and the timing for indictment under  
7 the Speedy Trial Act.

8           3.       The parties now file this stipulation to document and request a court order regarding the  
9 exclusions of time regarding the timing of any preliminary hearing under Federal Rule of Criminal  
10 Procedure 5.1, and the timing for indictment or trial under the Speedy Trial Act, until the next status  
11 conference set for February 26, 2021.

12           4.       The government has produced discovery relating to defendant's arrest and criminal  
13 history. The government and defendant are exploring the potential for a pre-indictment disposition.  
14 Counsel for defendant requires additional time to review discovery and discuss and advise the defendant  
15 regarding the evidence, including as to the merits of a potential pre-indictment disposition and the merits  
16 of proceeding to trial.

17           5.       The present rules governing visits to Santa Rita Jail and the need for the defense to  
18 schedule meetings with defendant further support the requested exclusions of time. Thus, with the  
19 consent of defendant, counsel for defendant represents that additional time is necessary to review the  
20 discovery in this action, confer with defendant, conduct and complete an independent investigation of  
21 the case, and prepare for trial in the event that a pre-indictment resolution does not occur.

22           6.       Defense counsel represents that defendant understands that he has a right under 18 U.S.C.  
23 § 3161(b) to be charged by information or indictment with the offense alleged in the pending criminal  
24 complaint and that defendant knowingly and voluntarily waives the time to be charged by indictment or  
25 information from Speedy Trial Act calculation until February 26, 2021. Defense counsel further  
26 represents that his client knowingly and voluntarily waives the timing for a preliminary hearing under  
27 Federal Rule of Criminal Procedure 5.1 until the requested status hearing date of February 26, 2021.  
28

7. For purposes of computing the date under Rule 5.1 of the Federal Rules of Criminal Procedure for preliminary hearing, and the date under the Speedy Trial Act by which defendants must be charged by indictment or information, the parties agree that the time period of January 21, 2021, to February 26, 2021, inclusive, should be excluded pursuant to 18 U.S.C. §§ 3161(b), (h)(7)(A), (h)(7)(B)(i) and (h)(7)(B)(iv) because the delay results from a continuance granted by the Court at defendants' request, without government objection, on the basis of the Court's finding that: (i) the ends of justice served by the continuance outweigh the best interest of the public and defendants in the filing of an information or indictment within the period specified in 18 U.S.C. § 3161(b); and (ii) failure to grant the continuance would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence

8. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which an information or indictment must be filed.

9. Based on his communications with the defendant, defense counsel represents that defendant desires to set this matter for a status hearing regarding preliminary hearing or arraignment on February 26, 2021, and agrees to the stipulations expressed in this filing, for all of the reasons described in this stipulation. The undersigned Assistant United States Attorney certifies that he has obtained approval from counsel for the defendant to file this stipulation and proposed order.

IT IS SO STIPULATED.

DATED: February 11, 2021

Respectfully Submitted,

DAVID L. ANDERSON  
United States Attorney

/s/ Thomas R. Green  
THOMAS R. GREEN  
Assistant United States Attorney

/s/ Joyce Leavitt  
JOYCE LEAVITT  
Attorney for Vandrick Andre Jones

~~[PROPOSED]~~ ORDER

The Court has read and considered the Stipulation Excluding Time Until February 26, 2021, filed by the parties in this matter. The Court hereby finds that the Stipulation, which this Court incorporates by reference into this Order, demonstrates facts provides good cause for a finding of excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, as well as to waive the timing for preliminary hearing under Rule 5.1 of the Federal Rules of Criminal Procedure.

The Court further finds that: (i) the ends of justice served by the exclusions of time outweigh the best interest of the public and defendants in the filing of an information or indictment within the time period set forth in 18 U.S.C. § 3161(b); and (ii) failure to grant the exclusions of time would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

THEREFORE, FOR GOOD CAUSE SHOWN:

The Court sets this matter for a status hearing regarding preliminary hearing or arraignment on February 26, 2021. The time period of January 21, 2021, to February 26, 2021, inclusive, is excluded in computing the time within which an information or indictment must be filed under 18 U.S.C. § 3161(b), and the time by which any trial must commence pursuant to the provisions of 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv). The Court also finds that defendant waives the timing by which a preliminary hearing must be held pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure for the time period of January 21, 2021 through February 26, 2021. Nothing in this Order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excluded from the period within which an information or indictment must be filed.

IT IS SO ORDERED.

February 16, 2021

DATE

  
HONORABLE VIRGINIA K. DEMARCHI  
UNITED STATES MAGISTRATE JUDGE